

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE of NEW YORK, STATE of ILLINOIS, STATE of
MARYLAND, STATE of WASHINGTON,

Plaintiffs, : 07-CV-8621 (PAC) (RLE)

- against -

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

: MOTION FOR ADMISSION
: TO PRACTICE, *PRO HAC
VICE*

Defendant.

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Pursuant to Rule 1.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, I, John M. Schwartz, an Assistant Attorney General for the State of New York, and a member in good standing of the bar of this Court, upon my accompanying declaration and the annexed certificates of good standing, hereby move for an Order admitting to practice before the Court *pro hac vice* to represent the State of Maryland:

KATHLEEN E. WHERTHEY
Assistant Attorney General
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
Tel: (410) 576-6345
Fax: (410) 576-6955
Email: kwherthey@oag.state.md.us

MAY 22 2008

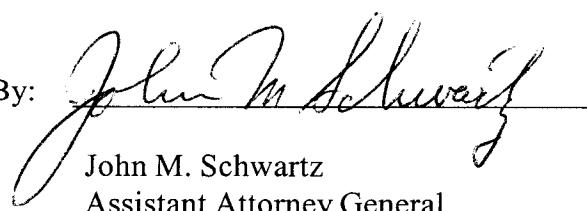
PL 925-652129
MAY 22 2008

Ms. Wherthey is a member in good standing of the Bar of the State of Maryland. There are no pending disciplinary proceedings against Ms. Wherthey in any State or Federal court.

Dated: May 21, 2008
New York, New York

FOR PLAINTIFF STATE OF NEW YORK
ANDREW M. CUOMO
Attorney General

By:



John M. Schwartz
Assistant Attorney General
Office of the Attorney General
120 Broadway, 24th Floor
New York, New York, 10271
(212) 416-8559

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE of NEW YORK, STATE of ILLINOIS, STATE of
MARYLAND, STATE of WASHINGTON, :
Plaintiffs, : 07-CV-8621 (PAC) (RLE)
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UNITED STATES DEPARTMENT OF HEALTH AND :
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**DECLARATION OF JOHN M. SCHWARTZ IN SUPPORT OF
MOTION FOR ADMISSION TO PRACTICE, *PRO HAC VICE***

I, John M. Schwartz, declare as follows:

1. I am a member in good standing of the bar of the State of New York, an attorney admitted to practice before the United States District Court for the Southern District of New York, and an Assistant Attorney General for the State of New York. I make this declaration in support of the motion, pursuant to Rule 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, to admit Kathleen E. Wherthey to practice before this Court *pro hac vice* to represent the State of Maryland in this action.

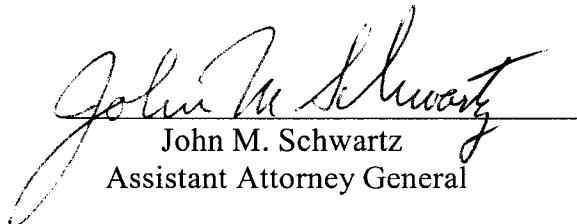
2. Ms. Wherthey is admitted to practice law in the State of Maryland by that State's Court of Appeals, and is a member in good standing of that Court. She is an Assistant Attorney General in the office of Douglas F. Gansler, Attorney General of the State of Maryland. I believe Ms. Wherthey to be of good character, and am unaware of any reason why this motion should not be granted.

3. As required by Local Rule 1.3(d), I attach as Exhibit A a certificate of good standing for Kathleen Evelyn Wherthey from the Court of Appeals of Maryland. Together with the filing of these papers, we are delivering to the Clerk of the Court checks for the fees required for admission *pro hac vice* for Ms. Wherthey.

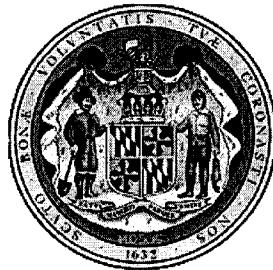
4. I respectfully request that our motion for admission of Kathleen E. Wherthey *pro hac vice* be granted.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 21, 2008
New York, New York


John M. Schwartz
Assistant Attorney General

**Court of Appeals
of Maryland
Annapolis, MD**



CERTIFICATE OF GOOD STANDING

STATE OF MARYLAND, ss:

I, Bessie M. Decker, Clerk of the Court of Appeals of Maryland, do hereby certify that on the fourteenth day of December, 1995,

Kathleen Evelyn Wherthey

having first taken and subscribed the oath prescribed by the Constitution and Laws of this State, was admitted as an attorney of said Court, is now in good standing, and as such is entitled to practice law in any of the Courts of said State, subject to the Rules of Court.

In Testimony Whereof, I have hereunto set my hand as Clerk, and affixed the Seal of the Court of Appeals of Maryland, this fifteenth day of May, 2008.

Bessie M. Decker

Clerk of the Court of Appeals of Maryland

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
STATE of NEW YORK, STATE of ILLINOIS, STATE of
MARYLAND, STATE of WASHINGTON, :

Plaintiffs, : 07-CV-8621 (PAC) (RLE)

- against - : **DECLARATION OF
SERVICE**

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

----- x

I, John M. Schwartz, declare pursuant to 28 U.S.C. § 1746, that I am employed as an Assistant Attorney General in the offices of Andrew M. Cuomo, Attorney General of the State of New York, attorney for plaintiff State of New York in this action. On May 21, 2008, I served the annexed Motion for Admission to Practice, *Pro Hac Vice*; Declaration of John M. Schwartz in Support of Motion for Admission to Practice, *Pro Hac Vice*; and, [Proposed] Order for Admission to Practice, *Pro Hac Vice* on defendant United States Department of Health and Human Services by mailing true and correct copies to:

Hon. Michael J. Garcia
United States Attorney
U.S. Attorney's Office, Southern District of New York
Civil Division
86 Chambers Street
New York, New York 10007

and by e-mailing true and correct copies to:

Karen Konieczny, Esq.
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Office of the Illinois Attorney General

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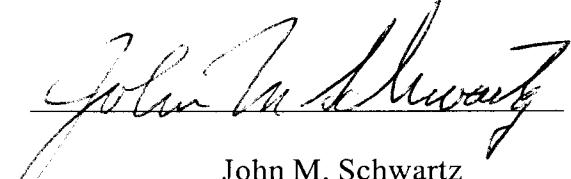
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Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
Tel: (410) 576-6345
Fax: (410) 576-6955
kwherthey@oag.state.md.us

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 21, 2008
New York, New York


John M. Schwartz
Assistant Attorney General

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

: [PROPOSED] ORDER FOR
: ADMISSION TO PRACTICE,
***PRO HAC
VICE***

Defendant.

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Upon the motion of John M. Schwartz, an Assistant Attorney General in the offices of Attorney General Andrew M. Cuomo, attorney for the State of New York in this action, and Mr. Schwartz's declaration in support,

IT IS HEREBY ORDERED that

KATHLEEN E. WHERTHEY, ESQ.
Assistant Attorney General
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
Tel: (410) 576-6345
Fax: (410) 576-6955
Email: kwherthey@oag.state.md.us

is admitted to practice *pro hac vice* as counsel for the State of Maryland in this action in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. This action has been assigned to the Electronic Case Filing System

(ECF), so counsel shall immediately apply for an ECF password at nysd.uscourts.gov. Counsel shall forward the pro hac vice fee to Clerk of Court.

Dated: May , 2008
New York, New York

United States District Judge